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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,433	01/16/2001	James Steven Hayko	33262	5201

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PEARNE & GORDON LLP  
1801 EAST 9TH STREET  
SUITE 1200  
CLEVELAND, OH 44114-3108

EXAMINER
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KANG, PAUL H

ART UNIT	PAPER NUMBER
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2144

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/761,433

Applicant(s)

HAYKO ET AL.

Examiner

Paul Kang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-9, 14-21, 23, 24, 26-28 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 14-21, 23, 24, 26-28 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Actions is in regards to the Amendment and Response received on 17 July 2006.

#### ***Claim Rejections - 35 USC § 103***

2. Claims 1-5, 7-9, 14-21, 23, 24, 26-28 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton et al. (Hamilton), U.S. Patent No. 6,009,464 in view of Balasubramaniam et al. (Balasubramaniam), U.S. Patent No. 6,701,441.
3. In regards to independent claims 1, 5 14, 17, 20, 21, 26, and 32 (e.g., exemplary independent claim 1), Hamilton discloses the invention substantially as claimed. Hamilton discloses about an application provision system comprising a server, (Fig 2, 130) a client comprising an operating system and a browser [col. 7, lines 29-36] a communication link operatively connecting the server and the client [Figure 4, items 305, 320, 340]; a server resident process on the server for controlling the application provision system, and for providing a requested application from the server to the client [Figure 5] a database comprising information for the location of files associated with an application that can be installed on the client a platform independent executable program deliverable by the server to the client for execution thereon [Col. 4, lines 65-col. 5, lines 5, col. 6, lines 35-55] a browser hosted process on the client resulting from execution of the platform independent executable program on the client a communication pipe established by the browser hosted process (Fig 1) (Col 4, line 65-Col 5, line 5) (Col 6, lines 35-55) the communication pipe being bi-directional, and enabling exclusive communication between the server resident process on the server, and the browser hosted process on the client, the browser hosted process accessing resources of the operating system on

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the client by installing, invoking or reading output from, executable files on the client [Hamilton, Col. 6, lines 10-25]. However, Hamilton does not explicitly disclose a database

4. In the same field of endeavor, Balasubramaniam discloses a database [col. 9, lines 55-67].

5. It would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Balasubramaniam with the teachings of Hamilton, for the purpose of prevent hackers from activating different subroutines embedded in a computer executable code downloaded to a user computer via the web [col. 7, lines 29-32].

6. In claim 2, Hamilton-Balasubramaniam teaches wherein the server resident process includes a common gateway interface (Hamilton, Col 4, line 65-Col 5, line 5) (Col 5, lines 40-50). The Common Gateway Interface is a subset of the skeletons that applies to an internet browser.

7. In claim 3, Hamilton-Balasubramaniam teaches wherein the platform independent executable program is "Java language" attached to a web page (Hamilton, Col 5, lines 40-50).

8. In claim 4, Hamilton-Balasubramaniam teaches wherein the platform independent executable program is a Java applet (Hamilton, Col 5, lines 40-50).

9. Regarding claim 5, limitations of this claim are substantially the same as that of claim 1, and is rejected for the same rationale in rejecting claim 1 above.

10. In claim 7, Hamilton-Balasubramaniam teaches wherein the application provision system further comprises; at least one file associated with at least one application wherein the application is installable on the client (Col 7, lines 35-50); and at least one web page for downloading to the browser located on the client (Col 7, lines 29-35).

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11. In claim 8, Hamilton-Balasubramaniam teaches wherein the file deliverable to the client includes a Java applet (Hamilton, Col 5, lines 55-65).

12. In claim 9, Hamilton- Balasubramaniam teaches wherein the server resident processes includes a common gateway interface (Col 4, line 65-Col 5, line 5) (Col 5, lines 40-50). The Common Gateway Interface is a subset of the skeletons that applies to an internet browser.

13. Regarding claim 14, limitations of this claim are substantially the same as that of claim 1, and is rejected for the same rationale in rejecting claim 1 above.

14. In claim 15, Hamilton-Balasubramaniam teaches wherein the step of providing the application provides the entire application to the client (Hamilton, Col 7, lines 40-50). All that is needed to access the online ordering system.

15. In claim 16, Hamilton-Balasubramaniam wherein the step of providing the application provides selected files associated with the application to the client to update an existing instance of the application on the client (Hamilton, Col 6, lines 1-15).

16. Regarding claim 17, limitations of this claim are substantially the same as that of claim 1, and is rejected for the same rationale in rejecting claim 1 above.

17. In claim 18, Hamilton-Balasubramaniam teaches wherein the step of receiving the application receives the entire application from the client (Hamilton, Col 6, lines 20-25).

18. In claim 19, Hamilton-Balasubramaniam teaches wherein the step of receiving the application receives selected files associated with the application from the server to update an existing instance of the application on the client (Hamilton, Col 6, lines 5-15).

19. Regarding claims 20 and 21, limitations of this claim are substantially the same as that of claim 1, and is rejected for the same rationale in rejecting claim 1 above.

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20. Regarding claims 23, limitations of this claim are substantially the same as that of claim 1, and is rejected for the same rationale in rejecting claim 1 above. Furthermore, with regards to the limitations of wherein the step of providing the requested application on the client comprises the steps of: providing a setup executable associated with the requested application by the server to the client, if the setup executable is absent on the client (Col 6, lines 10-20); installing the setup executable file on the client, if the setup executable is absent on the client (Col 6, lines 10-20); invoking the setup executable file (Col 6, lines 20-25); providing files associated with the requested version of the requested application by the setup executable files from the server to the client (Balasubramaniam , col. 11, lines 10-25 and Hamilton, Col 6, lines 10-20 col. 1, lines 35-45 and col. 2, lines 5-15); installing native components on the client such that the native components do not interfere with the operating system of the client (Col 6, lines 20-30).

21. Regarding claims 26, limitations of this claim are substantially the same as that of claim 1, and is rejected for the same rationale in rejecting claim 1 above.

22. In claim 27, Hamilton-Balasubramaniam, discloses wherein the step of providing files comprises the steps of: providing the setup executable program associated with the requested application by the server to the client, if the setup executable does not exist on the client (Hamilton Col 6, lines 10-20); installing the setup executable program on the client, if the setup executable program does not exist on the client (Hamilton Col 6, lines 10-25); invoking the setup executable program (Hamilton Col 6, lines 20-25); providing files associated with a requested version of the requested application by the setup executable program from the server to the client (Covered in claim ); and installing native components on the client such that the native components do not interfere with the operating system of the client (Hamilton Col 11, lines 50-65).

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23. In claim 28, Hamilton-Balasurbramaniam, teaches a wherein the step of providing files comprises the steps of: comparing version information of the requested application installed on the client with version information of the requested application located on the server if it was determined that the requested application was installed on the client (Balasurbramaniam Col 11, lines 20-65); and transferring files associated with the requested application to the client for installation of the requested application on the client if the version of the requested application on the client is not the same as the version of the application located on the server (Balasurbramaniam Col 11, lines 20-65).

24. Regarding claims 32, limitations of this claim are substantially the same as that of claim 1, and is rejected for the same rationale in rejecting claim 1 above.

#### ***Conclusion***

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

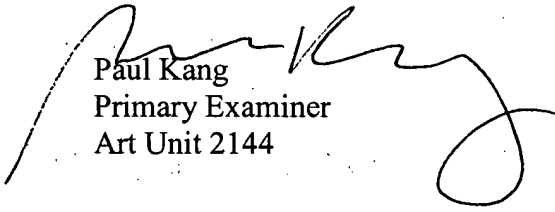
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kang whose telephone number is (571) 272-3882. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn, Jr. can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Kang  
Primary Examiner  
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